

Per Pupil Expenditure

Request to Exclude Title I, Part A ARRA Funds in Determining the Per Pupil Amount for SES

The South Dakota Department of Education (State) is planning to submit a request to the Secretary of the U.S. Department of Education (US ED) to waive section 1116(e)(6) of the Elementary and Secondary Education Act (ESEA). Prior to submitting this waiver request the State is required to provide all interested Local Education Agencies (LEAs) in the State with notice and a reasonable opportunity to comment on the request. The State will submit all comments it receives related to this request from the LEAs to US ED along with its waiver request. The State will accept comments related to the waiver request until August 2, 2009.

Under section 1116(e)(6) of the ESEA, an LEA must make available, for each student receiving SES, the lesser of: (1) the actual costs of the services; or (2) the LEA's Title I, Part A, Subpart 2 allocation divided by the number of children from families below the poverty level in the LEA, as determined by census data (*i.e.*, the "per-pupil amount for SES").

The requirement for the per-pupil amount for SES does not affect the amount an LEA must spend, in total, on SES. Rather, it affects the amount the LEA must spend for each student receiving SES. Absent a waiver, the ARRA funds would be included in the LEA's Title I, Part A, Subpart 2 allocation in determining the per-pupil amount, resulting in significantly higher per-pupil amounts for SES. Granting this waiver to an SEA would permit its LEAs, if they so choose, to exclude some or all of their Title I, Part A ARRA funds in calculating the per-pupil amount for SES and thus allow them to provide SES to a greater number of eligible students. LEAs receiving this flexibility will not be required to exclude all of the ARRA funds from its calculation of the per-pupil amount or to provide the same per-pupil amount for all services. For example, an LEA might provide the per-pupil amount based on its regular FY 2009 allocation to most students but provide a higher amount (based on its regular allocation plus some or all of its ARRA allocation) to students for whom it is more costly to provide SES, such as students with disabilities, limited English proficient students, or students in remote rural areas.

The State will provide an assurance that it will only implement the waiver for an LEA that provides the following assurances to the SEA:

- That the LEA will comply with all of the statutory and regulatory requirements regarding the provision of SES with respect to its regular FY 2009 Title I, Part A allocation; and
- That the LEA will comply with all other Title I, Part A statutory and regulatory requirements (to the extent they are not waived), including the requirements in sections 1114 and 1115 of the ESEA to have schoolwide and targeted assistance programs that "use effective methods and instructional strategies that are based on scientifically based research."

Any LEA requesting to implement a waiver related to the calculation of the per-pupil amount for SES will include both of the assurances that are described as LEA assurances in the SEA's request to the US ED. The LEA will also include in its request the amount of its Title I, Part A ARRA allocation that it seeks to exclude from the calculation of the per-pupil amount for SES.

If the state receives this waiver, it must submit to the US ED, by September 30, 2010, a report with the name and NCES District Identification Number for each LEA implementing the waiver. Note that, independent of this reporting requirement, the state will also post the per-pupil amount for SES for each LEA on its website (34 C.F.R. § 200.47(a)(1)(ii)(B)(2)). This information will also reflect the implementation of this waiver by each LEA.

A waiver of the per-pupil amount for SES will be granted for FY 2009 (the 2009–2010 school year). The per-pupil amount for SES is determined based on an LEA's Title I, Part A, Subpart 2 allocation for a particular fiscal year. Because Title I, Part A ARRA funds are a part of an LEA's FY 2009 allocation only, the LEA will need the benefit of a waiver for only FY 2009.

The information in this document is found in questions C-14 through C-19 in the Title I Waiver guidance online at: <http://doe.sd.gov/stimulus/title1waivers>

To provide comments on this waiver, click on the survey link provided on the web site (Question 7).